

ASSEMBLY BILL

No. 1553

Introduced by Committee on Utilities and Commerce (Fuentes (Chair), Duvall (Vice Chair), Blakeslee, Buchanan, Carter, Fong, Furutani, Huffman, Krekorian, Smyth, and Torrico)

March 10, 2009

An act to amend Section 44273 of the Health and Safety Code, to amend Sections 25620.1, 25620.2, 25620.6, 25620.7, and 25620.15 of the Public Resources Code, and to amend Sections 381, 384, 399, 890, and 895 of the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1553, as introduced, Committee on Utilities and Commerce. Public interest energy research.

Existing law requires the State Energy Resources Conservation and Development Commission to develop, implement, and administer a program, titled the Public Interest Energy Research, Development, and Demonstration Program, to include a full range of research, development, and demonstration activities that are not adequately provided for by competitive and regulated energy markets. Certain statutes, however, refer to the program as the Public Interest Research, Development, and Demonstration Program and the fund established for implementation and administration of the program is the Public Interest Research, Development, and Demonstration Fund.

This bill would change statutory references to the program to refer to it as the Public Interest Energy Research, Development, and Demonstration Program and would change the name of the fund established for implementation and administration of the program to

the Public Interest Energy Research, Development, and Demonstration Fund.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 44273 of the Health and Safety Code is
2 amended to read:

3 44273. (a) The Alternative and Renewable Fuel and Vehicle
4 Technology Fund is hereby created in the State Treasury, to be
5 administered by the commission. The moneys in the fund, upon
6 appropriation by the Legislature, shall be expended by the
7 commission to implement the Alternative and Renewable Fuel and
8 Vehicle Technology Program in accordance with this chapter.

9 (b) Notwithstanding any other provision of law, the sum of ten
10 million dollars (\$10,000,000) shall be transferred annually from
11 the Public Interest *Energy* Research, Development, and
12 Demonstration Fund created by Section 384 of the Public Utilities
13 Code to the Alternative and Renewable Fuel and Vehicle
14 Technology Fund. Prior to the award of any funds from this source,
15 the commission shall make a determination that the proposed
16 project will provide benefits to electric or natural gas ratepayers
17 based upon the commission's adopted criteria.

18 (c) Beginning with the integrated energy policy report adopted
19 in 2011, and in the subsequent reports adopted thereafter, pursuant
20 to Section 25302 of the Public Resources Code, the commission
21 shall include an evaluation of research, development, and
22 deployment efforts funded by this chapter. The evaluation shall
23 include all of the following:

24 (1) A list of projects funded by the Alternative and Renewable
25 Fuel and Vehicle Technology Fund.

26 (2) The expected benefits of the projects in terms of air quality,
27 petroleum use reduction, greenhouse gas emissions reduction,
28 technology advancement, and progress towards achieving these
29 benefits.

30 (3) The overall contribution of the funded projects toward
31 promoting a transition to a diverse portfolio of clean, alternative
32 transportation fuels and reduced petroleum dependency in
33 California.

1 (4) Key obstacles and challenges to meeting these goals
2 identified through funded projects.

3 (5) Recommendations for future actions.

4 SEC. 2. Section 25620.1 of the Public Resources Code is
5 amended to read:

6 25620.1. (a) The commission shall develop, implement, and
7 administer the Public Interest *Energy* Research, Development, and
8 Demonstration Program that is hereby created. The program shall
9 include a full range of research, development, and demonstration
10 activities that, as determined by the commission, are not adequately
11 provided for by competitive and regulated markets. The
12 commission shall administer the program consistent with the
13 policies of this chapter.

14 (b) The general goal of the program is to develop, and help bring
15 to market, energy technologies that provide increased
16 environmental benefits, greater system reliability, and lower system
17 costs, and that provide tangible benefits to electric utility customers
18 through the following investments:

19 (1) Advanced transportation technologies that reduce air
20 pollution and greenhouse gas emissions beyond applicable
21 standards, and that benefit electricity and natural gas ratepayers.

22 (2) Increased energy efficiency in buildings, appliances, lighting,
23 and other applications beyond applicable standards, and that benefit
24 electric utility customers.

25 (3) Advanced electricity generation technologies that exceed
26 applicable standards to increase reductions in greenhouse gas
27 emissions from electricity generation, and that benefit electric
28 utility customers.

29 (4) Advanced electricity technologies that reduce or eliminate
30 consumption of water or other finite resources, increase use of
31 renewable energy resources, or improve transmission or distribution
32 of electricity generated from renewable energy resources.

33 (c) To achieve the goals established in subdivision (b), the
34 commission shall adopt a portfolio approach for the program that
35 does all of the following:

36 (1) Effectively balances the risks, benefits, and time horizons
37 for various activities and investments that will provide tangible
38 energy or environmental benefits for California electricity
39 customers.

1 (2) Emphasizes innovative energy supply and end use
2 technologies, focusing on their reliability, affordability, and
3 environmental attributes.

4 (3) Includes projects that have the potential to enhance
5 transmission and distribution capabilities.

6 (4) Includes projects that have the potential to enhance the
7 reliability, peaking power, and storage capabilities of renewable
8 energy.

9 (5) Demonstrates a balance of benefits to all sectors that
10 contribute to the funding under Section 399.8 of the Public Utilities
11 Code.

12 (6) Addresses key technical and scientific barriers.

13 (7) Demonstrates a balance between short-term, mid-term, and
14 long-term potential.

15 (8) Ensures that prior, current, and future research not be
16 unnecessarily duplicated.

17 (9) Provides for the future market utilization of projects funded
18 through the program.

19 (10) Ensures an open project selection process and encourages
20 the awarding of research funding for a diverse type of research as
21 well as a diverse award recipient base and equally considers
22 research proposals from the public and private sectors.

23 (11) Coordinates with other related research programs.

24 (d) The term “award,” as used in this chapter, may include, but
25 is not limited to, contracts, grants, interagency agreements, loans,
26 and other financial agreements designed to fund public interest
27 *energy* research, demonstration, and development projects or
28 programs.

29 SEC. 3. Section 25620.2 of the Public Resources Code is
30 amended to read:

31 25620.2. (a) To ensure the efficient implementation and
32 administration of the Public Interest *Energy* Research,
33 Development, and Demonstration Program, the commission shall
34 do both of the following:

35 (1) Develop procedures for the solicitation of award applications
36 for project or program funding, and to ensure efficient program
37 management.

38 (2) Evaluate and select programs and projects, based on merit,
39 that will be funded under the program.

1 (b) The commission shall adopt regulations to implement the
2 program, in accordance with the following procedures:

3 (1) Prepare a preliminary text of the proposed regulation and
4 provide a copy of the preliminary text to any person requesting a
5 copy.

6 (2) Provide public notice of the proposed regulation to any
7 person who has requested notice of the regulations prepared by
8 the commission. The notice shall contain all of the following:

9 (A) A clear overview explaining the proposed regulation.

10 (B) Instructions on how to obtain a copy of the proposed
11 regulations.

12 (C) A statement that if a public hearing is not scheduled for the
13 purpose of reviewing a proposed regulation, any person may
14 request, not later than 15 days prior to the close of the written
15 comment period, a public hearing conducted in accordance with
16 commission procedures.

17 (3) Accept written public comments for 30 calendar days after
18 providing the notice required in paragraph (2).

19 (4) Certify that all written comments were read and considered
20 by the commission.

21 (5) Place all written comments in a record that includes copies
22 of any written factual support used in developing the proposed
23 regulation, including written reports and copies of any transcripts
24 or minutes in connection with any public hearings on the adoption
25 of the regulation. The record shall be open to public inspection
26 and available to the courts.

27 (6) Provide public notice of any substantial revision of the
28 proposed regulation at least 15 days prior to the expiration of the
29 deadline for public comments and comment period using the
30 procedures provided in paragraph (2).

31 (7) Conduct public hearings, if a hearing is requested by an
32 interested party, that shall be conducted in accordance with
33 commission procedures.

34 (8) Adopt any proposed regulation at a regularly scheduled and
35 noticed meeting of the commission. The regulation shall become
36 effective immediately unless otherwise provided by the
37 commission.

38 (9) Publish any adopted regulation in a manner that makes copies
39 of the regulation easily available to the public. Any adopted
40 regulation shall also be made available on the Internet. The

1 commission shall transmit a copy of an adopted regulation to the
2 Office of Administrative Law for publication, or, if the commission
3 determines that printing the regulation is impractical, an appropriate
4 reference as to where a copy of the regulation may be obtained.

5 (10) Notwithstanding any other provision of law, this
6 subdivision provides an interim exception from the requirements
7 of Chapter 3.5 (commencing with Section 11340) of Part 1 of
8 Division 3 of Title 2 of the Government Code for regulations
9 required to implement Sections 25620.1 and 25620.2 that are
10 adopted under the procedures specified in this subdivision.

11 (11) This subdivision shall become inoperative on January 1,
12 2012, unless a later enacted statute deletes or extends that date.
13 However, after January 1, 2012, the commission is not required
14 to repeat any procedural step in adopting a regulation that has been
15 completed before January 1, 2012, using the procedures specified
16 in this subdivision.

17 SEC. 4. Section 25620.6 of the Public Resources Code is
18 amended to read:

19 25620.6. The commission, in consultation with the Department
20 of General Services, may purchase insurance coverage necessary
21 to implement an award. Funding for the purchase of insurance may
22 be made from money in the Public Interest *Energy* Research,
23 Development, and Demonstration Fund created pursuant to Section
24 384 of the Public Utilities Code.

25 SEC. 5. Section 25620.7 of the Public Resources Code is
26 amended to read:

27 25620.7. (a) The commission may contract for, or through
28 interagency agreement obtain, technical, scientific, or
29 administrative services or expertise from one or more entities, to
30 support the program. Funding for this purpose shall be made from
31 money in the Public Interest *Energy* Research, Development, and
32 Demonstration Fund.

33 (b) The commission may select the services or expertise
34 described in subdivision (a), pursuant to Section 25620.5. In the
35 event that contracts or interagency agreements have been made to
36 multiple entities and their subcontractors for similar purposes, the
37 commission may select from among those entities the particular
38 expertise needed for a specified type of work. Selection of the
39 particular expertise may be based solely on a review of
40 qualifications, including the specific expertise required, availability

1 of the expertise, or access to a resource of special relevance to the
2 work, including, but not limited to, a database, model, technical
3 facility, or a collaborative or institutional affiliation that will
4 expedite the quality and performance of the work.

5 SEC. 6. Section 25620.15 of the Public Resources Code is
6 amended to read:

7 25620.15. (a) In order to ensure that prudent investments in
8 research, development, and demonstration of energy efficient
9 technologies continue to produce substantial economic,
10 environmental, public health, and reliability benefits, it is the policy
11 of the state and the intent of the Legislature that funds made
12 available, upon appropriation, for energy related public interest
13 *energy* research, development, and demonstration programs shall
14 be used to advance science or technology that is not adequately
15 provided by competitive and regulated markets.

16 (b) Notwithstanding any other provision of law, money collected
17 for public interest *energy* research, development, and demonstration
18 pursuant to Section 399.8 of the Public Utilities Code shall be
19 transferred to the Public Interest *Energy* Research, Development,
20 and Demonstration Fund. Money collected between January 1,
21 2007, and January 1, 2012, shall be used for the purposes specified
22 in this chapter.

23 (c) In lieu of the Public Utilities Commission retaining funds
24 authorized pursuant to Section 381 of the Public Utilities Code for
25 investments made by electrical corporations in public interest
26 *energy* research, development, and demonstration projects for
27 transmission and distribution functions, up to 10 percent of the
28 funds transferred to the commission pursuant to subdivision (b)
29 shall be awarded to electrical corporations for public interest *energy*
30 research, development, and demonstration projects for transmission
31 and distribution functions consistent with the policies and subject
32 to the requirements of this chapter.

33 SEC. 7. Section 381 of the Public Utilities Code is amended
34 to read:

35 381. (a) To ensure that the funding for the programs described
36 in subdivision (b) and Section 382 are not commingled with other
37 revenues, the commission shall require each electrical corporation
38 to identify a separate rate component to collect the revenues used
39 to fund these programs. The rate component shall be a

1 nonbypassable element of the local distribution service and
2 collected on the basis of usage.

3 (b) The commission shall allocate funds collected pursuant to
4 subdivision (a), and any interest earned on collected funds, to
5 programs that enhance system reliability and provide in-state
6 benefits as follows:

7 (1) Cost-effective energy efficiency and conservation activities.

8 (2) Public interest *energy* research and development not
9 adequately provided by competitive and regulated markets.

10 (3) In-state operation and development of existing and new and
11 emerging eligible renewable energy resources, as defined in Section
12 399.12.

13 (c) The Public Utilities Commission shall order the respective
14 electrical corporations to collect and spend these funds at the levels
15 and for the purposes required in Section 399.8.

16 (d) Each electrical corporation shall allow customers to make
17 voluntary contributions through their utility bill payments as either
18 a fixed amount or a variable amount to support programs
19 established pursuant to paragraph (3) of subdivision (b). Funds
20 collected by electrical corporations for these purposes shall be
21 forwarded in a timely manner to the appropriate fund as specified
22 by the commission.

23 SEC. 8. Section 384 of the Public Utilities Code is amended
24 to read:

25 384. (a) Funds transferred to the State Energy Resources
26 Conservation and Development Commission pursuant to this article
27 for purposes of public interest *energy* research, development, and
28 demonstration shall be transferred to the Public Interest *Energy*
29 Research, Development, and Demonstration Fund, which is hereby
30 created in the State Treasury. The fund is a trust fund and shall
31 contain money from all interest, repayments, disencumbrances,
32 royalties, and any other proceeds appropriated, transferred, or
33 otherwise received for purposes pertaining to public interest
34 research, development, and demonstration. Any appropriations
35 that are made from the fund shall have an encumbrance period of
36 not longer than two years, and a liquidation period of not longer
37 than four years.

38 (b) Funds deposited in the Public Interest *Energy* Research,
39 Development, and Demonstration Fund may be expended for
40 projects that serve the energy needs of both stationary and

1 transportation purposes if the research provides an electricity
2 ratepayer benefit.

3 (c) The State Energy Resources Conservation and Development
4 Commission shall report annually to the appropriate budget
5 committees of the Legislature on any encumbrances or liquidations
6 that are outstanding at the time the commission's budget is
7 submitted to the Legislature for review.

8 SEC. 9. Section 399 of the Public Utilities Code is amended
9 to read:

10 399. (a) This article shall be known, and may be cited, as the
11 Reliable Electric Service Investments Act.

12 (b) The Legislature finds and declares that safe, reliable electric
13 service is of utmost importance to the citizens of this state, and its
14 economy.

15 (c) The Legislature further finds and declares that in order to
16 ensure that the citizens of this state continue to receive safe,
17 reliable, affordable, and environmentally sustainable electric
18 service, it is essential that prudent investments continue to be made
19 in all of the following areas:

- 20 (1) To protect the integrity of the electric distribution grid.
21 (2) To ensure an adequately sized and trained utility workforce.
22 (3) To ensure cost-effective energy efficiency improvements.
23 (4) To achieve a sustainable supply of renewable energy.
24 (5) To advance public interest *energy* research, development
25 and demonstration programs not adequately provided by
26 competitive and regulated markets.

27 (d) It is the intent of the Legislature to reaffirm, without
28 requiring revision, California's doctrine, as reflected in regulatory
29 and judicial decisions, regarding electrical corporations' reasonable
30 opportunity to recover costs and investments associated with their
31 electric distribution grid and the reasonable opportunity to attract
32 capital for investment on reasonable terms.

33 (e) The Legislature further finds and declares all of the
34 following:

- 35 (1) Acting under applicable constitutional and statutory
36 authorities, the Public Utilities Commission and the boards of local
37 publicly owned electric utilities have included in regulated
38 electricity prices, investments that are essential to maintaining
39 system reliability, reducing California electricity users' bills, and

1 mitigating environmental costs of California users' electricity
2 consumption.

3 (2) Among the most important of these "system benefits"
4 investments categories are energy efficiency, renewable energy,
5 and public interest *energy* research, development and demonstration
6 (RD&D).

7 (3) Energy efficiency investments funded from California's
8 usage-based charges on electricity distribution help improve
9 systemwide reliability by reducing demand in times and areas of
10 system congestion, and at the same time reduce all California
11 electricity users' costs. These investments also significantly reduce
12 environmental costs associated with California's electricity
13 consumption, including, but not limited to, degradation of the
14 state's air, water, and land resources.

15 (4) California's in-state renewable energy resources help
16 alleviate supply deficits that could threaten electric system
17 reliability, reduce environmental costs associated with California's
18 electricity consumption, and increase the diversity of the electricity
19 system's fuel mix, reducing electricity users' exposure to fossil-fuel
20 price volatility.

21 (5) California's public interest RD&D investments enhance
22 private and regulated sector investment in electricity system
23 technologies, and are designed specifically to help ensure sustained
24 improvement in the economic and environmental performance of
25 the distribution, transmission, and generation and end-use systems
26 that serve California electricity users.

27 (6) California has established a long tradition of recovering
28 system benefits investments through usage-based electricity
29 charges, which is reflected in at least two decades of electricity
30 price regulation by the commission, the boards of local publicly
31 owned electric utilities, and the mandate of the Legislature in
32 Chapter 854 of the Statutes of 1996 (Assembly Bill 1890 of the
33 1995–96 Regular Session of the Legislature) and Chapter 905 of
34 the Statutes of 1997 (Senate Bill 90 of the 1997–98 Regular Session
35 of the Legislature).

36 (7) Unless the Legislature acts to extend the mandate of this
37 article for minimum levels of usage based system benefits charges,
38 California electricity users are at substantial risk of higher
39 economic and environmental costs and degraded reliability.

1 SEC. 10. Section 890 of the Public Utilities Code is amended
2 to read:

3 890. (a) On and after January 1, 2001, there shall be imposed
4 a surcharge on all natural gas consumed in this state. The
5 commission shall establish a surcharge to fund low-income
6 assistance programs required by Sections 739.1, 739.2, and 2790
7 and cost-effective energy efficiency and conservation activities
8 and public interest *energy* research and development authorized
9 by Section 740 and not adequately provided by the competitive
10 and regulated markets. Upon implementation of this article, funding
11 for those programs shall be removed from the rates of gas utilities.

12 (b) (1) Except as specified in Section 898, a public utility gas
13 corporation, as defined in subdivision (b) of Section 891, shall
14 collect the surcharge imposed pursuant to subdivision (a) from
15 any person consuming natural gas in this state who receives gas
16 service from the public utility gas corporation.

17 (2) A public utility gas corporation is relieved from liability to
18 collect the surcharge insofar as the base upon which the surcharge
19 is imposed is represented by accounts which have been found to
20 be worthless and charged off in accordance with generally accepted
21 accounting principles. If the public utility gas corporation has
22 previously paid the amount of the surcharge it may, under
23 regulations prescribed by the State Board of Equalization, take as
24 a deduction on its return the amount found to be worthless and
25 charged off. If any accounts are thereafter collected in whole or
26 in part, the surcharge so collected shall be paid with the first return
27 filed after that collection. The commission may by regulation
28 promulgate other rules with respect to uncollected or worthless
29 accounts as it determines to be necessary to the fair and efficient
30 administration of this part.

31 (c) Except as specified in Section 898, all persons consuming
32 natural gas in this state that has been transported by an interstate
33 pipeline, as defined in subdivision (c) of Section 891, shall be
34 liable for the surcharge imposed pursuant to subdivision (a).

35 (d) The commission shall annually determine the amount of
36 money required for the following year to administer this chapter
37 and fund the natural gas related programs described in subdivision
38 (a) for the service territory of each public utility gas corporation.

39 (e) The commission shall annually establish a surcharge rate
40 for each class of customer for the service territory of each public

1 utility gas corporation. A customer of an interstate gas pipeline,
2 as defined in Section 891, shall pay the same surcharge rate as the
3 customer would pay if the customer received service from the
4 public utility gas corporation in whose service territory the
5 customer is located. The commission shall determine the total
6 volume of retail natural gas transported within the service territory
7 of a utility gas provider, that is not subject to exemption pursuant
8 to Section 896, for the purpose of establishing the surcharge rate.

9 (f) The commission shall allocate the surcharge for gas used by
10 all customers, including those customers who were not subject to
11 the surcharge prior to January 1, 2001.

12 (g) The commission shall notify the State Board of Equalization
13 of the surcharge rate for each class of customer served by an
14 interstate pipeline in the service territory of a public utility gas
15 corporation.

16 (h) The State Board of Equalization shall notify each person
17 who consumes natural gas delivered by an interstate pipeline of
18 the surcharge rate for each class of customer within the service
19 territory of a public utility gas corporation.

20 (i) The surcharge imposed pursuant to subdivision (a) shall be
21 in addition to any other charges for natural gas sold or transported
22 for consumption in this state. Effective on July 1, 2001, the
23 surcharge imposed pursuant to this article shall be identified as a
24 separate line item on the bill of a customer of a public utility gas
25 corporation.

26 (j) Notwithstanding subdivision (a), public utility gas
27 corporations shall continue to collect in rates those costs of
28 programs described in subdivision (a) of Section 890 that are
29 uncollected prior to the operative date of this article.

30 SEC. 11. Section 895 of the Public Utilities Code is amended
31 to read:

32 895. Notwithstanding Section 13340 of the Government Code,
33 moneys in the Gas Consumption Surcharge Fund are continuously
34 appropriated, without regard to fiscal years, as follows:

35 (a) To the commission or an entity designated by the commission
36 to fund programs described in subdivision (a) of Section 890. If
37 the commission designates the State Energy Resources
38 Conservation and Development Commission to receive funds for
39 public interest *energy* research and development, both of the
40 following shall apply:

1 (1) The Controller shall transfer funds to a separate subaccount
2 within the Public Interest *Energy* Research, Development, and
3 Demonstration Fund to pay the State Energy Resources
4 Conservation and Development Commission for its costs in
5 carrying out its duties and responsibilities under this article.

6 (2) The State Energy Resources Conservation and Development
7 Commission may administer the program pursuant to Chapter 7.1
8 (commencing with Section 25620) of Division 15 of the Public
9 Resources Code.

10 (b) To pay the commission for its costs in carrying out its duties
11 and responsibilities under this article.

12 (c) To pay the State Board of Equalization for its costs in
13 administering this article.

O